

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE)	
COMPANY,)	
Plaintiff,)	C.A. No. 04-10659-DPW
v.)	[BROS Site]
THE BLACK & DECKER CORPORATION,)	
BLACK & DECKER, INC.,)	
BLACK & DECKER (U.S.) INC.,)	
EMHART CORPORATION, and)	
EMHART, INC.,)	
Defendants.)	

**LIBERTY MUTUAL INSURANCE COMPANY'S
RESPONSE TO DEFENDANTS' MOTION
TO SUPPLEMENT AND CERTIFY RECORD**

Liberty Mutual Insurance Company ("Liberty Mutual") responds to the March 1, 2005 Motion to Supplement and Certify Record filed by defendants, The Black & Decker Corporation, et al. ("Black & Decker"), as follows. Without stipulating to the relevance of any document to the issues raised on appeal, Liberty Mutual assents to Black & Decker's Motion, on the condition that the record which is to be certified and forwarded to the Court of Appeals for the First Circuit be further supplemented by the addition of the following documents from the case styled Liberty Mutual Insurance Company v. The Black & Decker Corporation, et al., C.A. No. 96-10804-DPW (the "1996 Action"):

Date Filed	Docket #	Docket Text
07/22/1996	8	Rule 16.1 Certification filed by Liberty Mutual Ins. (mqc) (Entered: 07/23/1996)

02/09/1998	139	List of appendices submitted in support of Liberty Mutual's motion and supporting memorandum for summary judgment, together with Appendix/exhibits submitted by Liberty Mutual in support of its Motion for Summary Judgment: Binders 2A, 2B, and 19.
03/02/1998	151	List of Appendix/exhibits by Liberty Mutual Ins. in support of [144-1] opposition response, together with Appendix/exhibits submitted by Liberty Mutual in support of its opposition to Black & Decker's Motion for Partial Summary Judgment: Binder 28, Tab 12.
10/28/98	195	STIPULATION (Motion) by Liberty Mutual Ins., for leave to file Response to Defendants' Supplemental Submission of Authority, FILED, (c/s)(cmg)(Entered: 10/29/1998)
10/28/98		Response of Liberty Mutual Insurance Company to Defendants' Supplemental Submission of Authority
11/03/98	202	Transcript of proceedings for held on proceeding date: 10/30/98 before Judge: Woodlock. Court Reporter: Pamela R. Owens (cmg)(Entered: 11/05/1998)
12/01/1998	210	LIST OF APPENDICES submitted . . . by Liberty Mutual Ins. in support of [209-1] support memorandum, Binder 30 at Tab 3 (pages 1 – 5) and Tabs 5, 6, 7, and 8, filed (BINDERS numbered 30 and 31 . . . also enclosed per the request of Judge Woodlock)(tmc)(Entered: 12/02/1998)
01/14/99	225	Transcript of proceedings for held on proceeding date: 12/8/98 before Judge: Woodlock. Court Reporter: Pam Owens (sad)(Entered: 01/15/1999)
07/24/2002	271	Joint supplemental submission in Response to [266-1] order by Liberty Mutual Ins., Black & Decker, Black & Decker, Inc., Black & Decker (U.S.), filed. c/s (mr) (Entered: 07/25/2002)
08/15/2002		Revised Joint supplemental submission in Response to [266-1] order by Liberty Mutual Ins., Black & Decker, Black & Decker, Inc., Black & Decker (U.S.)
09/27/2002	279	Submission by Liberty Mutual Ins. re: [140-1] motion for partial summary judgment, [138-1] motion for summary judgment, filed. c/s (mr) (Entered: 09/27/02)
09/27/2002	284	Exhibit Volume E by Liberty Mutual Ins. to [279-1] submission re: motion for partial summary judgment, [138-1] motion for summary judgment (mr) (Entered: 09/27/2002)
01/07/2004	391	MOTION in Limine re: Black & Decker's burden of proof concerning an "accident" under the 1956 to 1969 USM policies by Liberty Mutual Insurance Company (Rynne, Michelle)(Entered: 01/09/2004)

01/21/04	436	Emergency Opposition to <u>391</u> MOTION in Limine filed by Liberty Mutual Insurance Company. (Rowan, Janice) (Entered: 01/21/2004)
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Liberty Mutual reserves the right to contest the relevance of any document in the supplemental record to the issues on appeal in this case.

Liberty Mutual is prepared to assist the Court and the staff of the Clerk's Office in preparing and assembling this supplemental record.

WHEREFORE, Liberty Mutual respectfully requests that this Court supplement the record in this action by adding the above-listed documents to a supplemental record comprised of these documents and the documents specified in Black & Decker's March 1, 2005 Motion, and certifying and forwarding same to the Court of Appeals for the First Circuit.

Respectfully submitted,

LIBERTY MUTUAL INSURANCE COMPANY

By its attorneys,

/s/ Ralph T. Lepore, III

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 Janice Kelley Rowan (BBO #265520)
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Dated: March 10, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of March, 2005, I caused a copy of the foregoing document to be served by hand upon Jack R. Pirozzolo, Esq., counsel to Black & Decker, at Willcox, Pirozzolo & McCarthy, P.C., 50 Federal Street, Boston, Massachusetts 02110.

/s/ Janice Kelley Rowan

Janice Kelley Rowan

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